

AMENDED IN SENATE JUNE 30, 2005

AMENDED IN ASSEMBLY MAY 16, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 302**

**Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Koretz, Maze, Nation, Tran, Vargas, and Yee)**

February 9, 2005

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~~An act to add Section 10290.4 to the Public Contract Code, relating to state surplus personal property sales, and making an appropriation therefor. An act to add Sections 5588.1, 5588.2, 5588.3, and 5588.4 to, to repeal Section 5589 of, and to repeal and add Section 5588 of, the Business and Professions Code, relating to architecture.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 302, as amended, Committee on Business and Professions. ~~State surplus personal property: centralized sale. Architects: reporting requirements.~~

*Existing law provides for the licensing and regulation of architects by the California Architects Board. Existing law requires that a settlement or arbitration award in excess of \$5,000 of a claim or action for damages caused by a licensee's fraud, deceit, negligence, incompetence, or recklessness in practice be reported to the board by insurers and licensees.*

*This bill would delete these requirements and would instead require a licensee, a liability insurer, or a government agency that self insures a licensee to submit a report to the board meeting certain requirements where there is a civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment,*

*settlement, or arbitration award against the licensee in an action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of architecture if the amount or value of the judgment, settlement, or award is \$5,000 or more. The bill would authorize the board to adopt regulations defining the reporting requirements.*

~~Existing law requires the Department of General Services to perform various functions and duties with respect to state property and authorizes that department to sell, lease, exchange, or transfer specified parcels of real property throughout the state.~~

~~This bill would require the department to establish a program to centralize the sale of state surplus personal property using the best available technology, including, but not limited to, the Internet. This bill would also require the department to impose an additional charge on each item of state surplus personal property that is sold to recover its costs in establishing the program. This bill would also require the department to transmit the proceeds of these sales, less the additional charge, to the account or fund from which moneys were derived to make the initial personal property purchase.~~

~~By requiring moneys to be deposited into specified funds and accounts, some of which may be continuously appropriated, this bill would make an appropriation.~~

Vote:  $\frac{2}{3}$  majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 5588 of the Business and Professions*
- 2     *Code is repealed.*
- 3     ~~5588. Every insurer providing professional liability insurance~~
- 4     ~~to a holder of a license, and every license holder, shall send a~~
- 5     ~~complete report to the board on any settlement or arbitration~~
- 6     ~~award in excess of five thousand dollars (\$5,000) of a claim or~~
- 7     ~~action for damages caused by the license holder's fraud, deceit,~~
- 8     ~~negligence, incompetency, or recklessness in practice. The report~~
- 9     ~~shall be sent within 30 days after the settlement agreement has~~
- 10    ~~been consented to by the insured or within 30 days after service~~
- 11    ~~of the arbitration award on the parties.~~
- 12    *SEC. 2. Section 5588 is added to the Business and*
- 13    *Professions Code, to read:*

1     5588. (a) A licensee shall report to the board in writing  
2 within 30 days of the date the licensee has knowledge of any civil  
3 action judgment, settlement, arbitration award, or administrative  
4 action resulting in a judgment, settlement, or arbitration award  
5 against the licensee in any action alleging fraud, deceit,  
6 misrepresentation, breach or violation of contract, negligence,  
7 incompetence, or recklessness by the licensee in the practice of  
8 architecture if the amount or value of the judgment, settlement,  
9 or arbitration award is five thousand dollars (\$5,000) or greater.

10     (b) The report required by subdivision (a) shall be signed by  
11 the licensee and shall set forth the facts that constitute the  
12 reportable event. If the reportable event involves the action of an  
13 administrative agency or court, the report shall set forth all of  
14 the following:

15         (1) The title of the matter.

16         (2) The court or agency name.

17         (3) The docket number.

18         (4) The claim or file number.

19         (5) The date the reportable event occurred.

20     (c) A licensee shall promptly respond to oral or written  
21 inquiries from the board concerning the reportable events,  
22 including inquiries made by the board in conjunction with license  
23 renewal.

24     (d) Failure of a licensee to report to the board in the time and  
25 manner required by this section shall be grounds for disciplinary  
26 action.

27     SEC. 3. Section 5588.1 is added to the Business and  
28 Professions Code, to read:

29     5588.1. (a) Within 30 days of payment of all or any portion  
30 of a civil action judgment, settlement, or arbitration award  
31 described in Section 5588 against a licensee of the board in  
32 which the amount or value of the judgment, settlement, or  
33 arbitration award is five thousand dollars (\$5,000) or greater,  
34 any insurer providing professional liability insurance to that  
35 licensee shall report to the board all of the following:

36         (1) The name of the licensee.

37         (2) The claim or file number.

38         (3) The amount or value of the judgment, settlement, or  
39 arbitration award.

40         (4) The amount paid by the insurer.

1     (5) *The identity of the payee.*

2     (b) *Within 30 days of payment of all or any portion of any civil*  
3 *action judgment, settlement, or arbitration award described in*  
4 *Section 5588 against a licensee of the board in which the amount*  
5 *or value of the judgment, settlement, or arbitration award is five*  
6 *thousand dollars (\$5,000) or greater, any state or local*  
7 *government agency that self insures that licensee shall report to*  
8 *the board all of the following:*

9     (1) *The name of the licensee.*

10    (2) *The claim or file number.*

11    (3) *The amount or value of the judgment, settlement, or*  
12 *arbitration award.*

13    (4) *The amount paid.*

14    (5) *The identity of the payee.*

15    SEC. 4. *Section 5588.2 is added to the Business and*  
16 *Professions Code, to read:*

17    5588.2. *The requirements of Section 5588 and 5588.1 shall*  
18 *apply if a party to the civil action, settlement, arbitration award,*  
19 *or administrative action is or was a sole proprietorship,*  
20 *partnership, firm, corporation, or state or local government*  
21 *agency in which the licensee is or was an owner, partner,*  
22 *member, officer, or employee and is or was the licensee in*  
23 *responsible charge of that portion of the project that was the*  
24 *subject of the civil judgment, settlement, arbitration award, or*  
25 *administrative action.*

26    SEC. 5. *Section 5588.3 is added to the Business and*  
27 *Professions Code, to read:*

28    5588.3. *Notwithstanding any other provision of law, a*  
29 *licensee shall not be considered to have violated a confidential*  
30 *settlement agreement or other confidential agreement by*  
31 *providing a report to the board as required by this article.*

32    SEC. 6. *Section 5588.4 is added to the Business and*  
33 *Professions Code, to read:*

34    5588.4. *The board may adopt regulations to further define the*  
35 *reporting requirements of Sections 5588 and 5588.1.*

36    SEC. 7. *Section 5589 of the Business and Professions Code is*  
37 *repealed.*

38    ~~5589. Every settlement or arbitration award in excess of five~~  
39 ~~thousand dollars (\$5,000) of a claim or action for damages~~  
40 ~~caused by the license holder's fraud, deceit, negligence,~~

1 incompetency, or recklessness in practice when the license holder  
2 does not possess professional liability insurance as to that claim  
3 shall, within 30 days after any settlement agreement has been  
4 consented to by the license holder or 30 days after service of the  
5 arbitration award on the parties, be reported to the board. A  
6 complete report shall be made by appropriate means by the  
7 license holder or his or her counsel, with a copy of the  
8 communication to be sent to the claimant through his or her  
9 counsel if he or she is so represented, or directly if he or she is  
10 not. If, within 45 days of the conclusion of the settlement  
11 agreement or service of the arbitration award on the parties,  
12 counsel for the claimant, or if he or she is not represented by  
13 counsel, the claimant himself or herself, has not received a copy  
14 of the report, he or she shall himself or herself make a complete  
15 report. Failure of the license holder or claimant or, if represented  
16 by counsel, their counsel, to comply with the provisions of this  
17 section shall be a misdemeanor punishable by a fine of not less  
18 than one hundred dollars (\$100) or more than one thousand  
19 dollars (\$1,000). Knowing and intentional failure to comply with  
20 the provisions of this section, or conspiracy or collusion not to  
21 comply with the provisions of this section, or to hinder or impede  
22 any other person in the compliance with this section shall be a  
23 misdemeanor punishable by a fine of not less than ten thousand  
24 dollars (\$10,000) or more than one hundred thousand dollars  
25 (\$100,000).

26 SECTION 1. Section 10290.4 is added to the Public Contract  
27 Code, to read:

28 10290.4. (a) The Department of General Services shall  
29 establish a program to centralize the sale of state surplus personal  
30 property using the best available technology, including, but not  
31 limited to, the Internet. The department shall impose an  
32 additional charge on each item of state surplus personal property  
33 that is sold under this section to recover its costs in establishing  
34 the program.

35 (b) From the revenues derived from a sale described in  
36 subdivision (a), the department shall do both of the following:

37 (1) Retain all proceeds from the additional charge described in  
38 that subdivision.

- 1     ~~(2) Transmit the balance to the fund or account from which the~~
- 2     ~~moneys that originally purchased the property were derived.~~

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